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March 23, 2020

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street NW
Washington DC 20429

Re: FDIC RIN 3064-AF22 Proposed Changes to Community Reinvestment Act

Dear Mr. Feldman;

I am submitting comments regarding the Notice of Proposed Rulemaking regarding the Community Reinvestment Act. Our bank is in support of some of the proposed changes, but opposed to other changes contained in the proposal because we do not feel they maintain the original purpose of the regulation. It is clear with the discord between the Federal Reserve and the FDIC/OCC that our opposition is not unfounded – the agencies themselves do not even agree on the changes that are being proposed!

The primary intent of CRA is to deter the practice of redlining, which not only significantly prevents low and moderate income individuals from accessing credit and homeownership, but also impacts other socioeconomic opportunities for them. Redlining predominantly affects minorities and the poorer populations in our communities, and also serves as a detriment to building strong, healthy and vibrant communities. In addition to providing access to credit for all individuals, the CRA's intent is to have banks provide services, donations and investments that benefit low and moderate income individuals, families, and geographies. It appears that the proposed changes make the original intents of the regulation impotent.

The proposal includes many “measurement tests” and requires more reporting, which will be burdensome for banks and seems unnecessary. Shouldn't the underlying measurement be how well we meet the needs of each community? Shouldn't the banks be identifying those needs and be measured in how well they are meeting those needs?

We are a large bank with 34 Assessment Areas and over 3,000 census tracts. Our bank conducts annual written Needs Assessments for every single assessment area we serve. In assessment areas comprised of multiple counties within an MSA, we do a Needs Assessment for each county separately. We look for needs in five specific areas: Affordable Housing; Homelessness; Employment/Economic Development; Community Health; and Financial Literacy/Asset Poverty. We also look at the demographics of each county and work with our Fair Lending Officer to identify pockets of minorities and resulting needs. We identify barriers and challenges that each area has in meeting needs that are identified so we can address those barriers and challenges where possible and include them in our context. Not all communities are the same and neither are their needs. For example, homelessness is a huge issue in some areas, but not in others. In some areas, there is a shortage of available affordable housing; yet in

others, there is a surplus of affordable housing but it is in serious need of rehabilitation and repair. Some areas have high unemployment and other areas have very low unemployment.

In completing our needs assessment, our bank looks at the county and city comprehensive plans, conducts community outreach interviews with community organizations, analyzes the FFIEC data and looks at other pertinent data. We identify low and moderate income census tracts, underserved/distressed areas, opportunity zones, high poverty rates, unemployment rates, educational attainment, and other issues that may impact our communities. We determine the needs of our communities using those tools, and we strategize our CRA budgets to include each area and how we can help meet the needs we have targeted. While we cannot meet every need, we focus our time, resources, and dollars to the needs we have identified as being most critical. We devise an Action Plan for each of those areas and track our progress. It is easily measured – and we gather the data to show the impact of our activities and document it in our software system. It would be relatively easy for the examiners to look at our Needs Assessments, compare our recorded results and activities, and know whether we are meeting the needs of our communities. It is a far simpler method than all of the formulas, calculations and reporting that is being recommended in the proposed changes. This approach helps us not only be more aware of the needs in our communities it helps us measure our results. It provides more CRA focus in each area because the leadership in those areas do the leg work so they become more intimately acquainted with the true needs of their communities, rather than just the needs they “think” they know.

As stated, not all communities are the same or have the same needs. Some communities have larger populations of low and moderate income individuals or geographies, or higher underserved/distressed middle income nonmetropolitan tracts. Other communities have smaller populations of low and moderate income individuals or geographies and/or underserved/distressed middle income nonmetropolitan tracts or none at all. These differences create noteworthy differences in available opportunities as well. A broad-brushed approach in measuring the compliance of a bank with meeting the needs of their communities would seem to penalize the bank as a result.

Under the proposal, banks would in essence be penalized for not having branches located in low and moderate income census tracts. In some of our areas, there are no low or moderate income census tract areas. In some of our areas, the only low or moderate income census tract areas would prohibit a branch being built because they are zoned for residential property only. Isn't the true measurement whether the bank is providing convenient access to banking services and products to low and moderate income individuals? If our branch is near a low and moderate income census tract, and we have hours and services and products that target low and moderate income individuals, aren't we fulfilling what the CRA intent is? In areas where we don't have low and moderate income tracts, but we have higher pockets of people living below the poverty line, and we have products and programs to target these individuals, are we not fulfilling the intent of CRA? Using census tract designations is actually unreliable because they change from time to time – and a branch may have been located in a low or moderate income census tract when it was built, but the tract designation changed. Why then would we be penalized because we don't have a physical location in a low or moderate income census tract?

The proposal also indicates that banks could count rental housing as affordable housing if lower income individuals could afford to pay rent without any verification that the individuals living in those units are truly low or moderate income individuals. If there is no verification of income or specific legal restriction regarding income to reside in the housing unit, individuals with higher incomes can occupy the housing and cause a greater strain on available housing units for those who truly are low and moderate income individuals and families.

We would also appreciate greater insight from the agencies on assisted living facilities and whether those would be included as affordable housing or not – we have had mixed opinions. It would seem if they are not temporary care facilities, they should be considered affordable housing for those on Medicaid because it is considered a permanent address. We also have had mixed opinions expressed on student housing that should be addressed. We know students are not always low and moderate income individuals, but studies show that the majority of students are inherently are low and moderate income individuals. If a college or university approves or designates housing as “student housing”, because it is intended for students, it should qualify as affordable housing. Unfortunately, most of these housing complexes do not track income; they only are designated as housing for students of a nearby college or university.


Banks are already burdened enough with all of the regulatory requirements we have to comply with. Adding more reporting requirements seems unnecessary and doesn’t really achieve anything since banks are not all the same in their product lines, complexities, demographics, and service methods. The data is not really going to compare apples to apples or provide a true picture of what the banks are doing to meet the needs of their communities. The systems are not currently available to capture the proposed data and report it, so it will be more costly for the banks to implement. We are not non-profits, so our costs are passed on somehow to the customers. Although it has been expressed by the agencies that it will eventually become more cost effective once the systems are developed, who is to say that something else won’t change down the road that will make all the effort and expense and burden meaningless?

Our bank prides itself on community service – and we agree that the requirement to provide “financial expertise” in the community service we provide should be removed from the regulation. Many of the activities we do in the community benefit the low and moderate income individuals, but we have not been able to count those activities in our CRA exam because they did not lend “financial expertise”. However, building a Habitat for Humanity home and providing the manual labor for that project still benefitted low and moderate income individuals.

We are also having difficulties with Opportunity Zones. The intent of this designation is for low or moderate income census tracts that have been specially designated as Opportunity Zones to encourage investment and revitalization/stabilization. However, we find many census tracts that are not low or moderate income tracts have been designated as Opportunity Zones. We have seen middle income tracts that are not designated as distressed or underserved as well as upper income census tracts that have been designated as Opportunity Zones – even though they are shown as “low income” on the Opportunity Zone lists. Just because an activity takes place in an Opportunity Zone does not necessarily mean it benefits low and moderate income individuals.

Please consider our comments in your proposal for changing CRA. Any changes to CRA should maintain the focus of targeting low and moderate income individuals, small businesses and small farms, and strengthening our communities.

Respectfully,



Scott Burke
President/CEO